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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2010-241

11 **BOSE MARY FOSTER**

12 14020 Doty Avenue
13 Hawthorne, CA 90250

A C C U S A T I O N

14 Registered Nurse License No. RN 648455

15 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about November 22, 2004, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 648455 to Bose Mary Foster (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on June 30, 2010, unless renewed.
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28

JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

1 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
2 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
3 to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the
4 Board may renew an expired license at any time within eight years after the expiration.

5 9. Section 2765 states:

6 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
7 charge substantially related to the qualifications, functions and duties of a registered nurse is
8 deemed to be a conviction within the meaning of this article. The board may order the license or
9 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
10 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
11 order granting probation is made suspending the imposition of sentence, irrespective of a
12 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
13 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
14 of guilty, or dismissing the accusation, information or indictment.”

15 REGULATORY PROVISIONS

16 10. California Code of Regulations, title 16, section 1444, states:

17 “A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

21

22 “(c) Theft, dishonesty, fraud, or deceit. . . .”

23 COST RECOVERY

24 11. Section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 12. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision
4 (f), in conjunction with section 2765 and California Code of Regulations, title 16, section 1444,
5 subdivision (c), in that on or about May 21, 2007, Respondent was convicted of a felonious crime
6 substantially related to the qualifications, functions or duties of a registered nurse which to a
7 substantial degree evidences her present or potential unfitness to practice as a registered nurse in a
8 manner consistent with the public health, safety, or welfare, as follows:

9 a. On or about May 21, 2007, after pleading guilty, Respondent was convicted of one
10 felony count of violating Penal Code section 487 (a) [grand theft involving property worth more
11 than \$400] in the Superior Court of California, County of Los Angeles, Case No.: SA062871
12 entitled *The People of the State of California v. Bose Foster*. The Court sentenced Respondent to
13 three (3) years probation, twenty (20) days in jail, perform 400 hours of community service, and
14 pay restitution in the amount of \$36,661.00.

15 b. The circumstances underlying the conviction are that on or about between November
16 2003 through May 2006, Respondent reported a low income to qualify for public housing
17 benefits, which she received under the Federal Housing Assistance program. Specifically, she
18 reported an income as low as \$8,580.00 and intentionally failed to disclose that she was gainfully
19 employed and earned approximately \$152,000.00 as a registered nurse. Her failure to declare her
20 actual income resulted in receiving government benefits that she was not entitled to.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 13. Respondent is subject to disciplinary action under section 2761, subdivision (a)
24 and/or (d), in that Respondent committed acts of unprofessional conduct and/or violated
25 provisions of the Nursing Practice Act. Complainant refers to and by this reference incorporates
26 the allegations set forth above in paragraph 12, a and b, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 648455, issued to Bose Mary Foster.
2. Ordering Bose Mary Foster to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

11/3/09



LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant